



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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### IRN42504.E

Iran: The competent authority/court with legal jurisdiction to sentence a convicted criminal to death; whether a death sentence can be handed down *in absentia* ; if so, the procedure involved, including whether the family of the convicted individual *in absentia* would be notified that a death sentence had been handed down  
Research Directorate, Immigration and Refugee Board, Ottawa

Information on the procedures surrounding the issuance of a death sentence is scarce among the sources consulted by the Research Directorate.

The competent courts with legal jurisdiction to sentence a convicted criminal to death are the Common or Ordinary Courts, and the Revolutionary Courts (Iran n.d.a; UN 27 June 2003, 7; see also AFP 29 Sept. 2002, AFP 23 Nov. 2002 and HRW 2003, 445).

Section 232 of the Iranian Code of Criminal Procedure provides that the decisions of the Common Courts and the Revolutionary Courts are final, except when the punishment handed down is severe-such as in cases involving the death penalty (UN 27 June 2003, 7). Cases of individuals who have been sentenced to death can be appealed to the Supreme Court (Iran n.d.a; AI 10 Oct. 2003; see also BBC 13 Oct. 2003, AFP 8 Feb. 2003 and HRWF 12 Feb. 2003), which is the highest judicial authority in Iran (Iran n.d.b). Where the punishment of stoning has been handed down for the offence of adultery, "[t]he death penalty can only be executed once it has been confirmed by the Supreme Court or when no appeal has been entered" (Belgium Sept. 2002, 10). However, in practice, the Supreme Court generally refers the case back to a "court of the same instance" for review of the case, which usually alters the penalty to a less severe punishment (ibid.).

In cases involving persons *in absentia* , the Civil Procedural Law of Iran provides that in criminal proceedings, a failure to appear in court and a failure to file a defense with the court will result in the court proceeding with the hearing, unless the attendance of the accused is required, at which time the court will issue a summons (Iran n.d.a). A failure to appear in court on the order of a subpoena without justification "shall not cause a delay in the issuance of the judgement" (ibid. n.d.b), as the person who fails to appear in court after a summons has been issued will be arrested and brought to court (ibid.).

[Where] a subpoena for attending the court's hearings had been served on the accused, and he or his attorney submitted no written statement to the court, or did not attend any of the court's hearings, the judgment when issued shall be

called, 'judgment in absentia' and can be protested to the same court within 10 days from the date it is served. In case the accused has hidden himself and cannot be summoned and arrested, the court shall assign an attorney...on his behalf and...carry on the investigations with respect to the allegations and will [conclude] the proceedings with [an] issuance of the judgments. This judgment will be subject to a protest to the same court within 10 days (ibid. n.d.a).

Information on the precise procedure followed when the death penalty is handed down *in absentia*, including whether the family of the convicted individual *in absentia* would be notified that a death sentence had been handed down, could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

#### References

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United Nations (UN). 27 June 2003. Economic and Social Council. "Civil and Political rights, Including the Question of Torture and Detention: Report of the Working Group on Arbitrary Detention. Visit to the Islamic Republic of Iran."  
<<http://www.unhchr.ch>> [Accessed 13 Apr. 2004]

#### Additional Sources Consulted

Iran-based lawyer.

A New York-based lawyer, with offices in Tehran, did not respond to a letter requesting information.

Two London-based lawyers, with knowledge of Iranian law and legal system, did not respond to a letter requesting information.

**Internet sites, including:** *Country Reports on Human Rights Practices for 2003*, Deputy of Judicial Training, Dialog/WNC, European Country of Origin Information Networks (ECOI), *The Iranian*, Iran Press Service, Islamic Republic News Agency (IRNA), *Pars Times*, United Nations High Commissioner for Human Rights (UNHCHR), United Nations Integrated Regional Information Networks (IRIN).

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